

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 766 - SB 725

March 22, 2021

SUMMARY OF ORIGINAL BILL: Clarifies certain identifying information of a patient from the all payer claims database that is prohibited from being made available to the public.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (005524): Deletes all language after the enacting clause. Establishes exclusive standards for data security, licensees' investigations of cybersecurity events, and licensees' notification of cybersecurity events to the Commissioner of the Department of Commerce and Insurance (DCI) and affected consumers.

Sets out requirements related to the design of a licensee's information security program. Requires licensees to conduct a prompt investigation upon learning that a cybersecurity event has or may have occurred. Sets out minimum criteria the investigation is required to cover. Requires a licensee to notify the Commissioner of DCI as soon as practicable, and within three business days, that a cybersecurity event has occurred under certain circumstances. Requires a licensee to notify consumers affected, or reasonably believed to have been affected by the cybersecurity event within 45 days from determination of the event.

Authorizes the Commissioner of DCI to examine and investigate a licensee to determine if whether the licensee has been or is engaged in conduct in violation of this part. Establishes that documents, materials, or information in the control or possession of the DCI that are furnished by a licensee in connection with an investigation or examination are confidential.

Exempts: (1) a licensee who employs less than 25,000 individuals; (2) a licensee with less than \$5,000,000 in gross annual revenue; or (3) a licensee with less than \$10,000,000 in year-end total assets. Authorizes the Commissioner of DCI to seek penalties pursuant to Tenn. Code Ann. § 56-2-305 for a violation of this part. Requires each insurer domiciled in this state to annually submit to the Commissioner of DCI written certification that the insurer is in compliance with this section by April 15 of each year. Requires each insurer to maintain all records, schedules, and data supporting the certification for a period of five years from the date of the corresponding certification for examination by the DCI.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 56-2-305, a violation of any statute, rule or order by any insurer, person or entity required to be licensed, permitted, or authorized by the Division of Insurance may, at the Commissioner's discretion, be subject to a penalty of not more than \$1,000 for each violation, but not to exceed an aggregate penalty of \$100,000, unless the insurer, person, or entity knowingly violates a statute, rule or order, in which case the penalty shall not be more than \$25,000 for each violation, not to exceed an aggregate penalty of \$250,000.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Court's 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. Therefore, it is assumed that there will not be a significant increase in revenue as a result of the mandatory minimum fines for these offenses.
- This legislation may result in an increase in formal complaints; however, any such increase is estimated to be not significant.
- The Division of Consumer Affairs can handle any increase in formal complaints, examinations and investigations of licensees utilizing existing resources, without a significant increase in state expenditures.
- Any impact on the court system will be not significant.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- This legislation will not significantly affect the process by which businesses in this state must notify residents that a cybersecurity event has occurred.
- This legislation is estimated to have no significant impact on commerce or jobs in Tennessee.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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